

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

---

PARKER MALMSTROM and CRYSTAL  
MALMSTROM,

Plaintiffs,

v.

STATE OF UTAH DEPARTMENT OF  
CHILDREN AND FAMILIES, et al.,

Defendants.

**MEMORANDUM DECISION AND  
ORDER ADOPTING [109] REPORT  
AND RECOMMENDATION**

Case No. 1:17-cv-80-DN-EJF

District Judge David Nuffer

Magistrate Judge Evelyn J. Furse

---

The Report and Recommendation<sup>1</sup> issued by United States Magistrate Judge Evelyn J. Furse on February 5, 2018 recommends<sup>2</sup> that Plaintiff Crystal Malmstrom's claims<sup>3</sup> against Defendant Jacob Smith be dismissed for failure to state a claim.

The parties were notified of their right to file objections to the Report and Recommendation within 14 days of its service pursuant to [28 U.S.C. § 636](#) and [Fed. R. Civ. P. 72](#).<sup>4</sup> As Plaintiffs were mailed a copy of the Report and Recommendation, they were provided an additional three days to file their objection under [Fed. R. Civ. P. 6\(d\)](#).

---

<sup>1</sup> Report and Recommendation: Jacob Smith's Motion to Dismiss (ECF No. 46), [docket no. 109](#), filed February 5, 2018.

<sup>2</sup> Report and Recommendation at 7.

<sup>3</sup> Pro se Plaintiff Parker Malmstrom filed his Complaint on May 16, 2017. *See* Complaint, [docket no. 1](#), filed May 17, 2017. He then filed an Amended Complaint on May 16, 2017. *See* Amended Complaint, [docket no. 3](#), filed May 23, 2017. The Amended Complaint joined his mother, Crystal Malmstrom, as a Plaintiff. *See Id.* At Oral Argument, Crystal Malmstrom clarified that she is only bringing claims against Defendant Jacob Smith. *See* Minute Order, Proceedings held before Magistrate Judge Evelyn J. Furse: Motion Hearing, docket no. 88, filed September 12, 2017

<sup>4</sup> Report and Recommendation at 7–8.

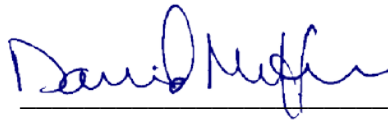
Because no party filed a timely written objection to the Report and Recommendation as provided by court rules,<sup>5</sup> and because the analysis and conclusion of the Magistrate Judge are sound, the Report and Recommendation<sup>6</sup> is adopted in its entirety.

### ORDER

IT IS HEREBY ORDERED that the Report and Recommendation<sup>7</sup> is ADOPTED and Defendant Jacob Smith's Motion to Dismiss is GRANTED. Plaintiff Crystal Malmstrom's claims against Jacob Smith are dismissed without prejudice for failure to state a claim. Because the claims against all other defendants have been dismissed with prejudice by other orders,<sup>8</sup> upon the entry of this order, *all* claims in Plaintiffs' complaint have been dismissed without prejudice. The clerk is directed to close the case.

Signed March 6, 2018.

BY THE COURT



---

David Nuffer  
United States District Judge

---

<sup>5</sup> See [28 U.S.C. § 636](#) and [Fed. R. Civ. P. 72](#)

<sup>6</sup> Report and Recommendation: Jacob Smith's Motion to Dismiss (ECF No. 46), [docket no. 109](#), filed February 5, 2018.

<sup>7</sup> Report and Recommendation: Jacob Smith's Motion to Dismiss (ECF No. 46), [docket no. 109](#), filed February 5, 2018.

<sup>8</sup> See Memorandum Decision and Order Adopting [102] Report and Recommendation, [docket no. 111](#), filed February 7, 2018; Memorandum Decision and Order Adopting [103] Report and Recommendation, [docket no. 112](#), filed February 7, 2018; Memorandum Decision and Order Adopting [104] Report and Recommendation, [docket no. 113](#), filed February 7, 2018; and Memorandum Decision and Order Adopting [105] Report and Recommendation, [docket no. 114](#), filed February 7, 2018.